



ENVIRONMENTAL PROTECTION AGENCY

Proposed Partial Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed partial consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or the “Act”), notice is hereby given of a proposed partial consent decree to address a lawsuit filed by the Sierra Club in the United States District Court for the Northern District of California: Sierra Club v. McCarthy, Civil Action No. 4:14-cv-3198-JSW (N.D. Cal.). On July 15, 2014, Plaintiff filed a complaint and on December 10, 2014, Plaintiff filed a first amended complaint. Plaintiff alleged that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (“EPA”), failed to: (a) perform a mandatory duty to find that Tennessee failed to submit a state implementation plan (“SIP”) element for the 2008 ozone National Ambient Air Quality Standard (“NAAQS”); and (b) take timely final action to approve or disapprove, in whole or in part, certain 2008 ozone NAAQS SIP elements from named states. The proposed consent decree would establish deadlines for EPA to take some of these actions.

DATES: Written comments on the proposed partial consent decree must be received by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2015-0069, online at www.regulations.gov (EPA’s preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand

delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Karen Bianco, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-3298; fax number: (202) 564-5603; email address: bianco.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed partial consent decree.

The proposed partial consent decree would resolve a lawsuit filed by the Sierra Club seeking to compel the Administrator to take actions under CAA sections 110(k)(1)-(4). Under the terms of the proposed partial consent decree, EPA would agree to sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and disapprove in part, certain plans pursuant to sections 110(k)(2)-(4) of the CAA no later than the date indicated below for the following states and elements of section 110(a)(2) for the 2008 ozone NAAQS:

	STATE	SIP ELEMENT(S)	DATE
a.	Alabama	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M) (excluding prong 4)	October 31, 2015
b.	Alabama	110(a)(2)(D)(i)(II) (prong 4)	May 31, 2016

	STATE	SIP ELEMENT(S)	DATE
c.	Arizona	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M) (excluding prong 4)	June 30, 2015
d.	Arizona	110(a)(2)(D)(i)(I) (prongs 1 and 2) and (II) (prong 4)	June 7, 2016
e.	Colorado	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M)	October 31, 2015
f.	Colorado	110(a)(2)(D)(i)(I) (prongs 1 and 2)	January 29, 2016
g.	Connecticut	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M)	December 31, 2015
h.	Georgia	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M) (excluding prong 4)	October 31, 2015
i.	Georgia	110(a)(2)(D)(i)(II) (prong 4)	May 31, 2016
j.	Idaho	110(a)(2)(D)(i)(I) (prongs 1 and 2)	January 29, 2016
k.	Illinois	110(a)(2)(A)	May 30, 2015
l.	Illinois	110(a)(2)(E)(ii) and (J) (visibility portion)	August 31, 2015
m.	Indiana	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M) (excluding prong 4 and (J) (visibility portion))	May 31, 2015
n.	Indiana	110(a)(2)(J) (visibility portion)	August 31, 2015
o.	Indiana	110(a)(2)(D)(i)(I) (prongs 1 and 2) and (D)(i)(II) (prong 4)	June 7, 2016
p.	Iowa	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M)	September 30, 2016

	STATE	SIP ELEMENT(S)	DATE
q.	Kansas	110(a)(2)(J) (visibility portion)	November 30, 2015
r.	Maryland	110(a)(2)(D)(i)(I) (prongs 1 and 2)	January 29, 2016
s.	Mississippi	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M) (excluding prong 4)	October 31, 2015
t.	Mississippi	110(a)(2)(D)(i)(II) (prong 4)	May 31, 2016
u.	Montana	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M)	March 31, 2016
v.	Nebraska	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M)	September 30, 2015
w.	Nebraska	110(a)(2)(D)(i)(I) (prongs 1 and 2)	January 29, 2016
x.	New Hampshire	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M)	December 31, 2015
y.	North Carolina	110(a)(2)(A)-(C), (D)(ii)-(H), (J)-(M) (excluding 110(a)(2)(C) (PSD portion), E(ii), and (J) (PSD portion))	October 31, 2015
z.	North Carolina	110(a)(2)(C) (PSD portion), (D)(i)(II) (prongs 3 and 4), (E)(ii), and (J) (PSD portion)	May 31, 2016
aa. .	North Dakota	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M) (excluding prong 4)	December 17, 2015
b b.	North Dakota	110(a)(2)(D)(i)(I) (prongs 1 and 2) and (II) (prong 4)	January 29, 2016

	STATE	SIP ELEMENT(S)	DATE
cc .	Ohio	110(a)(2)(C) (PSD portion), (D)(i)(II) (prong 3), and (J) (PSD portion)	March 31, 2015
d d.	Ohio	110(a)(2)(J) (visibility portion)	August 31, 2015
ee .	Ohio	110(a)(2)(D)(i)(I)(prongs 1 and 2) and (II) (prong 4)	June 7, 2016
ff.	Oregon	110(a)(2)(D)(i)(I) (prongs 1 and 2)	January 29, 2016
g g.	Rhode Island	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M)	December 31, 2015
h h.	South Carolina	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M) (excluding prong 4)	October 31, 2015
ii.	South Carolina	110(a)(2)(D)(i)(II) (prong 4)	May 31, 2016
jj.	Texas	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M) (excluding prong 4)	August 31, 2016
k k.	Texas	110(a)(2)(D)(i)(II) (prong 4)	September 4, 2015
ll.	Texas	110(a)(2)(D)(i)(I) (prongs 1 and 2)	June 7, 2016

	STATE	SIP ELEMENT(S)	DATE
m m .	West Virginia	110(a)(2)(E)(ii)	May 31, 2015
n n.	Utah	110(a)(2)(A)-(C), (D)(i)(II)-(H), (J)-(M) (excluding prong 4)	June 30, 2016
o o.	Utah	110(a)(2)(D)(i)(I)(prongs 1 and 2) and (II) (prong 4)	June 7, 2016

If any State withdraws an above-listed submittal, then EPA's obligation to take the required action with respect to that submittal is automatically terminated.

Under the terms of the proposed consent decree, EPA will send notice of each action to the Office of the Federal Register for review and publication within 15 days of signature. In addition, the proposed consent decree outlines the procedure for the Plaintiff to request costs of litigation, including attorney fees.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed partial consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed partial consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this partial consent decree should be

withdrawn, the terms of the partial consent decree will be affirmed.

II. Additional information about commenting on the proposed partial consent decree.

A. How Can I Get A Copy Of the Consent Decree?

The official public docket for this action (identified by EPA-HQ-OGC-2015-0069) contains a copy of the proposed partial consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov. You may use www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA’s electronic

public docket but will be available only in printed, paper form in the official public docket.

Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA’s electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA’s preferred method for receiving comments. The electronic public docket system is an “anonymous access” system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA’s electronic public docket, EPA’s electronic mail (e-mail) system is not an “anonymous access” system. If you send an e-mail comment directly to the Docket without going through

www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: January 27, 2015.

Lorie J. Schmidt,
Associate General Counsel.

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